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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,569	01/02/2002	Philip Atkin	GJEL:0003	5846
7590	05/22/2007		EXAMINER	
Michael G. Fletcher			AGGARWAL, YOGESH K	
Fletcher, Yoder & Van Someren				
P.O. Box 692289			ART UNIT	PAPER NUMBER
Houston, TX 77269-2289			2622	
			MAIL DATE	DELIVERY MODE
			05/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/038,569	ATKIN, PHILIP	
	<b>Examiner</b>	<b>Art Unit</b>	
	Yogesh K. Aggarwal	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 February 2007.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3 is/are rejected.
- 7) Claim(s) 2 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

***Response to Arguments***

1. Applicant's arguments filed 02/21/2007 have been fully considered but they are not persuasive.

**Examiner's response:**

2. Applicant argues at pages 8 and 9 that the present invention differs from Mann and Umemura in that it teaches how to combine the pixels in order that each output pixel is directly proportional to the light intensity at the **corresponding pixel location**. To do otherwise (that is, to combine pixels from other locations) would destroy the information necessary to perform the calculation correctly.

In response, the Examiner respectfully disagrees with the Applicants' assessment of the claims since the claims are written much broader than the Applicants' arguments. It appears that the Applicants brought specification into the claims which are written much broader than what they should be.

In fact, Umemura teach that when various parameters are used for one original image data, the image data filtered by the 3.times.3 filter 2 and stored in the memory 3 is read out for each such parameter. Then, the original image data and the filtered image data are subjected to linear combination by the adder device 5 in order to achieve high-speed processing (col. 8 lines 23-39, figure 9, also see col. 7 line 53-col. 8 line 23, figure 1) which reads on the claimed limitations "obtaining a substantially linear representation of the image by combining two images".

Therefore, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e.,

Art Unit: 2622

how to combine the pixels in order that each output pixel is directly proportional to the light intensity at the **corresponding pixel location**) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mann (US Patent # 5,828,793) in view of Umemura (US Patent # 4,590,582).

[Claim 1]

Mann discloses a method of creating an image with a still video camera (col. 11 lines 43-46, figure 8, element 202). Mann further teaches that the image is transferred to a computer to be stored on a main memory 210 represented as 212<sub>1</sub>, 212<sub>2</sub>, 213<sub>3</sub> etc. (col. 11 lines 46-54). Mann also teaches that the composite images formed from a series of input images wherein every pixel of the composite image is drawn from the corresponding pixel in each of the input source images according to a weighted average. The weighting is based on a certainty function associated with each source image pixel corresponding to an output pixel in the final composite image. The value of the relevant pixel parameter for a given final-image pixel (weighted average of n samples) is given by

Art Unit: 2622

$$\sum_n c_n P_n / \sum_n c_n$$

where  $c_n$  is the certainty function associated with the corresponding pixel of each source image n (col. 6 line 51-col. 7 line 8). It is noted that  $P_n$  (pixel parameter) is dependent upon exposure time, brightness or luminance and the gain of the system. Mann teaches that the resulting pixel image represented by the expression above is saved in a target buffer 250 whose contents are shown on screen display 234 (col. 12 lines 32-49). The features such as gamma correction (other image data) are also stored in the target image data (col. 13 lines 4-8).

Mann fails to teach explicitly obtaining a substantially linear representation of the image by combining two images. However Umemura teach that when various parameters are used for one original image data, the image data filtered by the 3.times.3 filter 2 and stored in the memory 3 is read out for each such parameter. Then, the original image data and the filtered image data are subjected to linear combination by the adder device 5 in order to achieve high-speed processing (col. 8 lines 23-39, figure 9, also see col. 7 line 53-col. 8 line 23, figure 1).

Therefore taking the combined teachings of Mann and Umemura, it would be obvious to one skilled in the art at the time of the invention to have been motivated to have obtained a substantially linear representation of the image by summing two images in order to achieve high-speed processing as taught in Umemura (col. 8 lines 23-39).

[Claim 3/1]

Mann teaches that the different images are color so that the offset will be color dependent (col. 13 lines 21-30).

***Allowable Subject Matter***

5. Claims 2 and 3/2 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to teach or suggest a linear relationship is established between images recorded with different exposure times by the use of a perpendicular regression technique whereby each image is transformed to match the scale and offset of the first in the series and whereby the weighted average is calculated.

6. Claim 3/2 is dependent upon claim 2.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

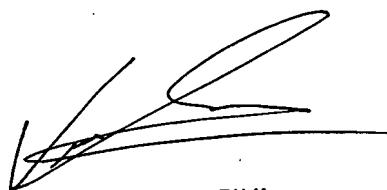
Art Unit: 2622

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh K. Aggarwal whose telephone number is (571) 272-7360. The examiner can normally be reached on M-F 9:00AM-5:30PM.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571)-272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YKA  
May 12, 2007



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